Constitutional Patent Ownership Rights Before the CAFC

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November 21, 2025

The United States Patent and Trademark Office (USPTO) has undermined Article I, Section 8, Clause 8 of the Constitution, which confers on inventors the right to apply for and secure patents on their inventions in the USPTO. In a district court, the USPTO made an unconstitutional argument that inventors need not be considered owners of their patents, even in the absence of an assignment. The district court accepted it. We are appealing the district court ruling, and our case is now before the US Court of Appeals for the Federal Circuit (No. 2026-1167, Nesarikar v. PTO).

If the CAFC affirms the district court, it would outright deny inventors their constitutional patent rights if they were ever employed. Inventors could only establish ownership by presenting all their past employment agreements in a court because the USPTO avoids such ownership determinations for inventors. Patent infringers, including foreign entities, would have a foolproof defense without an evidentiary burden, patents would lose value, and our revered patent law and system would be rendered meaningless. An affirmance would irreversibly harm U.S. national priorities, particularly in the field of our patent applications, artificial intelligence.

This affects all inventors. This marks the beginning of the end of patent filing and ownership by small inventors (individual inventors and small businesses) as ownership rights can only be determined in federal court, a process that is prolonged, expensive, and uncertain. The USPTO's unconstitutional argument undermines reliable IP protection, which is essential for inventors to disclose the state of the art through patent filings, a process which has invigorated our economy and secured US leadership and prosperity.

We are requesting the CAFC to expedite proceedings and to render a precedential decision. We feel a responsibility to make other inventors and legal professionals aware of the impending decision. The courts and the USPTO need to know where you stand. Please consider filing an *amicus* brief in CAFC No. 2026-1167. If submitting an *amicus* brief is not possible, consider contacting your congressional representatives in support of all inventors.